

Eugene P. Ramirez (State Bar No. 134865)
eugene.ramirez@manningkass.com
Lynn Carpenter (State Bar No. 310011)
lynn.carpenter@manningkass.com
Kayleigh Andersen (State Bar No. 306442)
kayleigh.andersen@manningkass.com
MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP
801 S. Figueroa St, 15th Floor
Los Angeles, California 90017-3012
Telephone: (213) 624-6900
Facsimile: (213) 624-6999

Attorneys for Defendant, COUNTY OF
RIVERSIDE, SHAWN HUBACHEK and
JIMMIE MCGUIRE

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

S.L. a minor by and through the
Guardian Ad Litem Kristine Llamas
Leyva, individually and as successor-in-
interest to JOHNNY RAY LLAMAS,
deceased; V.L., by and through the
Guardian Ad Litem Amber Sietsinger,
individually and as successor-in-interest
to JOHNNY RAY LLAMAS deceased;
and CAROLYN CAMPBELL,
individually,

Plaintiffs,

v.

COUNTY OF RIVERSIDE; SHAWN
HUBACHEK; JIMMIE MCGUIRE;
and DOES 3–10, inclusive,

Defendant.

Case No.: 5:24-cv-00249-CAS(SP_x)
Hon. Christina A. Snyder

**DEFENDANTS' NOTICE OF
MOTION AND MOTION TO STAY
THE DISTRICT COURT
PROCEEDINGS; MEMORANDUM
OF POINTS AND AUTHORITIES**

*Filed concurrently with Declaration of
Kayleigh Andersen and Proposed Order*

Date: Monday, September 15, 2025
Time: 10:00 am
Crtrm.: Courtroom 8D__

Action Filed: 02/01/2024

TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE THAT on Monday, September 15, 2025, at 10:00
a.m., or as soon thereafter the matter may be heard, in Courtroom 8D of the above
entitled court located at 350 West First Street, Los Angeles, California 90012,
Defendants County of Riverside, Shawn Hubachek, and Jimmie McGuire

1 (“Defendants”) will move this Court for an Order staying the trial court proceedings,
2 pending resolution of Defendants interlocutory appeal (Case No.25-4537).

3 This Motion is made pursuant to the “divestiture of jurisdiction rule” since all
4 remaining claims are aspects of the appeal. *See U.S. v. Claiborne*, 727 F.2d 842,
5 850(9th Cir. 1984). Specifically, the remaining claims have been properly appealed
6 on the basis of standing and qualified immunity. Further, this motion is also made
7 pursuant to the inherent discretionary power of district courts to stay proceedings
8 pending before them. *See Rohan ex rel. Gates v. Woodford*, 334 F.3d 803, 817 (9th
9 Cir. 2003), abrogated on other grounds by *Ryan v. Gonzales*, 568 U.S. 57, 133 S. Ct.
10 696, 184 L. Ed. 2d 528 (2013). As such, the orderly course of justice and balance of
11 hardships favor staying the entire action pending the resolution of the appeal.

12 This Motion is based upon this notice, the attached memorandum of points
13 and authorities, the papers and records on file in this action, and upon such
14 additional oral argument and documentary evidence as may be properly before the
15 Court at the time of the hearing on this matter. This motion is made following the
16 conference of counsel pursuant to L.R. 7-3 which took place on July 31, 2025, by e-
17 mail. Then, again, by phone on August 1, 2025. *See Declaration of Kayleigh*
18 *Andersen* [“Andersen Decl.”].

19 DATED: August 14, 2025

MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP

20
21
22 By: /s/ Kayleigh Andersen
23 Kayleigh Andersen
24 Attorneys for Defendant, COUNTY OF
25 RIVERSIDE, SHAWN HUBACHEK and
26 JIMMIE MCGUIRE
27
28

MEMORANDUM OF POINTS AND AUTHORITIES

I. BACKGROUND

On June 23, 2025, this Court issued its ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT (Doc. 54). Pursuant to this decision, the following claims remain active in the case:

1. Plaintiff, V.L.’s First Cause Of Action for excessive force, pursuant to 42 U.S.C. section 1983, against Defendants Sergeant Shawn Hubachek (“Sgt. Hubachek”), and Deputy Jimmie McGuire (“Deputy McGuire”);

2. Plaintiffs S.L., V.L. and Carolyn Campbell’s (“Plaintiffs”) Third Cause Of Action for violation of 14th Amendment rights/right to familial relationship pursuant to 42 U.S.C. section 1983, against Defendants Sgt. Hubachek and Deputy McGuire;

3. Plaintiff, V.L.’s Sixth, Seventh, and Eighth Causes of Action, under state law (respectively, for battery, negligence, and Bane Act) against Defendants County of Riverside, Sgt. Hubachek, and Deputy McGuire (collectively, “Defendants”).

On July 18, 2025, Defendants filed their notice of appeal from the Court’s order on Defendants’ motion for summary judgment. (Doc. 55) Whereby, the Court granted summary judgment in part and denied it, in part. Defendants seek an appeal on grounds which include qualified immunity and standing. Filing the notice had the effect of staying further proceedings in the district court on the remaining claims: two federal causes of action against Sgt. Hubachek and Deputy McGuire, and V.L.’s three remaining state law claims against all Defendants. *See Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982), *Chuman v. Wright*, 960 F.2d 104, 105 (9th Cir. 1992). By this motion, Defendants ask this Court for an order to stay all proceedings in this action until the pending interlocutory appeal comes to a resolution in order to prevent simultaneous jurisdiction of the trial court and appellate court.

**II. A MOTION TO STAY IS APPROPRIATE AS ALL REMAINING
CLAIMS ARE ASPECTS ON APPEAL.**

In the Ninth Circuit, an interlocutory claim is immediately appealable, and its filing divests the district court of jurisdiction to proceed with trial. *United States v. Claiborne*, 727 F.2d 842, 850 (9th Cir.1984), cert. denied, 469 U.S. 829, 105 S.Ct. 113, 83 L.Ed.2d 56 (1984). Without a stay, any district court ruling could lead to inconsistent results.

A. V.L. and S.L.’s Standing Issues Concern the Remaining Federal and State Claims, Not Dispositive on Summary Judgment.

Generally, “[t]he filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.” *Griggs*, 459 U.S. at 58. This rule, divesting the district court of jurisdiction, is not based on statutory provisions or the rules of civil procedure, but “is a judge made rule originally devised in the context of civil appeals to avoid confusion or waste of time resulting from having the same issues before two courts at the same time. *Claiborne*, 727 F. 2d at 850. Certifying that an appeal is frivolous or waived is an exception to this rule. *Rodriguez v. Cnty. of Los Angeles*, 891 F.3d 776, 791 (9th Cir. 2018).¹ However, to date, there have been no such certifications. Even if there were, the basis of standing is not frivolous as concrete legal questions exist.

Defendants recognize and appreciate the Court’s decision as to S.L. and V.L.’s disparate standing issues, but respectfully submits that these issues present a proper basis for an appeal. First, *Wheeler v. City of Santa Clara* 894 F.3d 1046 (9th Cir. 2018), instructs that S.L.’s 14th amendment claim is barred. Inadvertently, the Court’s ruling created an impermissible exception legal authority under Cal. Civ.

¹ Importantly, the divestiture rule operates differently from a discretionary analysis under *Landis v. North American Co.*, 299 U.S. 248, 254 (1936).

1 Proc. Code § 377.60 and Cal. Prob. Code § 6451.

2 Second, Defendants assert that V.L.’s standing, as to her survival claims, are
3 predicated on the presumed parent standard. This standard operates under a two part
4 analysis: (1) receiving the child, and (2) openly holding out the child as their natural
5 child. *See, e.g., Estate of Britel*, 236 Cal. App. 4th 127, 138 (2015)(exploring the
6 term “openly hold” under California statutory construction), as modified on denial
7 of reh’g (May 15, 2015). However, Defendants posit that the Court did not properly
8 evaluate the second prong. Separately, as to V.L.’s wrongful death claims, she
9 cannot fall into any category contained in Cal. Civ. Proc. Code § 377.60 that would
10 enable her to have standing. *See Stennett v. Miller*, 34 Cal. App. 5th 284, 289-306
11 (2019). (analyzing Cal. Civ. Pro. § 377.60 involving an absentee father and
12 California laws of intestate succession.)

13 **B. Qualified Immunity**

14 “In general, an appeal of an order denying qualified immunity divests the
15 district court of jurisdiction to proceed with trial on the issues involved in the appeal.”
16 *Gonzalez v. City of Alameda*, 21-CV-09733-DMR, 2023 WL 6851991, at *1 (N.D.
17 Cal. Oct. 16, 2023), *Chuman*, 960 F.2d at 105.

18 As mentioned above, there have been no motions to certify Defendants’ appeal
19 as frivolous. To the extent Plaintiffs sought such relief in the future, it would be
20 unwarranted. Frivolity requires a qualified immunity claim “that is unfounded, so
21 baseless that it does not invoke appellate jurisdiction and that a forfeited qualified
22 immunity claim is one that is untimely or dilatory”. *Marks v. Clarke*, 102 F.3d 1012,
23 1017, n. 8 (9th Cir. 1996), as amended on denial of reh’g (Feb. 26, 1997) (internal
24 quotation and citation omitted). That is not the situation here.

25 *Suzuki v. Cty. of Contra Costa*, No. 18-CV-06963-SI, 2019 WL 4674418 (N.D.
26 Cal. Sept. 25, 2019) proves instructive. In staying the case, the Court noted:

27 An appeal from the denial of qualified immunity is not frivolous solely
28 because the district court based its order on what it perceived to be
clearly established law. To certify the appeal as frivolous on account of

1 the very question that defendants seek to appeal, as plaintiff urges of this
2 Court, is to render defendants' ability to appeal a nullity.

3 *Suzuki, supra*, at *2 (internal citation omitted).

4 Related, "[e]ven a district court's belief that parties are unlikely to prevail on
5 appeal is insufficient alone to warrant certification of the appeal as frivolous." *Id.*

6 In denying qualified immunity, the summary judgment order discussed, inter
7 alia: *Estate of Lopez by & through Lopez v. Gelhaus*, 871 F.3d 998, 1001 (9th Cir.
8 2017); *George v. Morris*, 736 F.3d 829, 832 (9th Cir. 2013); *Curnow By & Through*
9 *Curnow v. Ridgecrest Police*, 952 F.2d 321, 323 (9th Cir. 1991); and *Estate of Aguirre*
10 *v. County of Riverside*, 29 F.4th 624, 629-30 (9th Cir. 2002). Defendants submit that
11 those cases are factually distinct from the underlying incident and do not create
12 "clearly established" law, as defined by *White v. Pauly*, 137 S. Ct. 548, 551-552
13 (2017) and other Supreme Court precedent.

14 Qualified immunity is a complex area of law, demonstrated by the ample
15 appellate and Supreme Court jurisprudence concerning the topic. *See e.g. White*,
16 *supra*, 551-552; *Richardson v. McKnight*, 521 U.S. 399, 408 (1997). Insofar as the
17 topic brings professional disagreement among appellate courts. Further, an appeal
18 may proceed even with disputed facts. The Ninth Circuit may review a denial of
19 qualified immunity where a defendant argues that the facts, even when considered in
20 the light most favorable to the plaintiff, show no constitutional violation, or no
21 violation of a clearly established right. *Ames v. King County*, 846 F.3d 340, 347 (9th
22 Cir. 2017). This could occur because Defendant is appealing denial of qualified
23 immunity, and qualified immunity consists of two prongs: "(1) whether there has
24 been a violation of a constitutional right; and (2) whether that right was clearly
25 established at the time of the officer's alleged misconduct." *Lal v. California*, 746
26 F.3d 1112, 1116 (9th Cir. 2014) (internal citation omitted).

27 ///

28 ///

**III. EVEN UNDER DISCRETIONARY STANDARDS PENDING THE
RESOLUTION OF AN INTERLOCUTORY APPEAL, A STAY
REMAINS APPROPRIATE.**

The Ninth Circuit has explained that “[a] district court has discretionary power to stay proceedings in its own court under *Landis v. North American Co.*, 299 U.S. 248, 254, 81 L. Ed. 153, 57 S. Ct. 163 (1936).” *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1109 (9th Cir. 2005).

The *Lockyer* court explained that:

Where it is proposed that a pending proceeding be stayed, the competing interests which will be affected by the granting or refusal to grant a stay must be weighed. Among those competing interests are [1] the possible damage which may result from the granting of a stay, [2] the hardship or inequity which a party may suffer in being required to go forward, and [3] the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which could be expected to result from a stay.

Lockyer, 398 F.3d at 1110; citation omitted, material in brackets added.

Pursuant to the standards set out in *Lockyer*, the Court should stay the proceedings in this action pending the resolution of the interlocutory appeal filed by Defendants.

First, justice will benefit from granting a stay. All of the active claims asserted by Plaintiffs against Defendants are stayed by virtue of the filing of their appeal. If no stay is granted here, the parties will conduct a trial that will not differ much from the one that would have occurred if the defendants had chosen not to file their appeal. But if that appeal does not succeed, Defendants would likely be faced with having to go through a second trial almost identical to the first one. Collateral estoppel may limit some of the issues to be addressed in such a second trial, but likely not all. So denying this motion for stay would likely negatively impact “the orderly course of justice” by requiring two trials of the claims against Defendants rather than just one. Granting the stay would naturally simplify matters, by allowing all of the related “issues, proof, and questions of law” to be presented to a single jury in a single trial.

1 Second, the balance of hardships favors granting this motion for a stay. The
2 other two factors the district court should consider when ruling on a motion for stay
3 pending appeal are “the possible damage which may result from the granting of a
4 stay” and “the hardship or inequity which a party may suffer in being required to go
5 forward”. *Lockyer, supra*, 398 F.3d at 1110. Essentially, the court is required to
6 balance any hardship that granting the stay might impose on the party opposing the
7 stay against the hardship that the moving party will suffer if the stay is not granted.

8 The hardship Defendants will suffer if a stay is not ordered in this matter
9 pending the resolution of the pending appeal has essentially been set out in the
10 preceding section: inconsistent rulings, duplication of efforts by the defendants (as
11 well as plaintiffs and this Court), and subjecting the defendants (and other witnesses)
12 with having to attend and testify at two trials rather than just one. In contrast, the only
13 damage the plaintiff might suffer as a result of the granting of the stay would be a
14 delay in the partial trial of her claims against the defendants. (Part of the potential trial
15 has already been stayed as a result of the filing of the interlocutory appeal.)

16 **IV. CONCLUSION**

17 For these reasons, Defendants’ request that this Court grant its motion to stay
18 the district court proceedings.

19 DATED: August 14, 2025

**MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP**

22 By: /s/ Kayleigh Andersen
23 Kayleigh Andersen
24 Attorneys for Defendant, COUNTY OF
25 RIVERSIDE, SHAWN HUBACHEK and
26 JIMMIE MCGUIRE
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 801 S. Figueroa St, 15th Floor, Los Angeles, CA 90017-3012.

On August 14, 2025, I served true copies of the following document(s) described as **DEFENDANTS' NOTICE OF MOTION AND MOTION TO STAY THE DISTRICT COURT PROCEEDINGS; MEMORANDUM OF POINTS AND AUTHORITIES** on the interested parties in this action as follows:

Electronic Mail Notice List

The following are those who are currently on the list to receive e-mail notices for this case.

- **Kayleigh Ann Andersen**
kayleigh.andersen@manningkass.com, delia.flores@manningkass.com
- **Lynn Louise Carpenter**
Lynn.Carpenter@manningkass.com, Angela.Thompson@manningkass.com
- **Richard T Copeland**
rtc@conflict-solution.com
- **Dale K Galipo**
dalekgalipo@yahoo.com, dgilbert@galipolaw.com, blevine@galipolaw.com, evalenzuela@galipolaw.com, rvalentine@galipolaw.com, slaurel@galipolaw.com, CMayne@galipolaw.com, msincich@galipolaw.com, ldeleon@galipolaw.com, amonguia@galipolaw.com, coopermayne@recap.email, sanderson@galipolaw.com, hlee@galipolaw.com
- **Benjamin Stamler Levine**
blevine@galipolaw.com
- **Garo Mardirossian**
garo@garolaw.com, lourdes@garolaw.com
- **Lawrence D Marks**
lmarks@garolaw.com, tdockweiler@garolaw.com, daniel@garolaw.com
- **Eugene P Ramirez**
Eugene.Ramirez@manningkass.com, delia.flores@manningkass.com

BY CM/ECF NOTICE OF ELECTRONIC FILING: I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on August 14, 2025, at Los Angeles, California.

/s/ Sandra Alarcon
Sandra Alarcon